

SUMMARY STATEMENT

Strong v. Intermountain Anesthesia

Docket No. 42514

The Idaho Supreme Court affirmed in part and reversed in part the Bonneville County district court's order granting dismissal of Thomas L. Strong (Strong) and Brian K. Hawk (Hawk) (collectively Appellants) case pursuant to Idaho Rules of Civil Procedure 41(b) for failure to prosecute a claim and 40(c) for unjustified inaction for over six months.

The Court held that Respondents' statements, without more, that "one potential witness died, one became undiscoverable, and one moved out of state," are insufficient to support a finding of actual demonstrated prejudice under Rule 41(b). However, the Court held that because there were two delays of over six months and Appellants failed to show good cause for such delays, the district court's dismissal under Rule 40(c) was proper. Additionally, under Idaho Appellate Rule 11.2(a), the Court imposed a sanction on Appellants' counsel to pay Respondents' reasonable attorneys fees and costs incurred in defending the appeal.